

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 MALIK KENDRICK,

4 Petitioner,

Case No. 2:23-cv-00594-ART-MDC

5 v.

6 RONALD OLIVER, *et al.*,ORDER APPROVING STIPULATION
AND STAYING ACTION

7 Respondents.

8

9 In this habeas corpus action, the petitioner, Malik Kendrick, who is
10 represented by appointed counsel, filed an amended habeas petition on
11 December 18, 2023. (ECF No. 14.) The respondents filed a motion to dismiss on
12 February 16/2024 (ECF No. 20), and then withdrew that motion (*see* ECF Nos.
13 24, 25) and filed a revised motion to dismiss (ECF No. 26, filed April 26, 2024).
14 Kendrick is scheduled to respond to the motion to dismiss by May 24, 2024. (See
15 ECF No. 25.)

16 On May 6, 2024, the parties filed a stipulation (ECF No. 27) requesting that
17 this action be stayed pending Kendrick's exhaustion of claims in state court. The
18 parties represent that Kendrick filed a second post-conviction petition in state
19 court on March 18, 2024, and that an evidentiary hearing has been scheduled in
20 that case. (ECF No. 27 at 1-2.) The parties agree that, in light of the ongoing
21 proceedings in state court, this action should be stayed under *Rhines v. Weber*,
22 544 U.S. 269 (2005). The parties suggest—reasonably so—that staying this action
23 pending completion of the state court proceedings will serve the interests of
24 judicial economy, as the outcome of the state court proceedings could affect the
25 resolution of this case. (*Id.* at 2.) The parties agree that there is good cause for
26 the stay under *Rhines*.

27 The Court will approve the stipulation and will stay this action pending the
28 conclusion of Kendrick's state court action.

1 It is therefore ordered that the Stipulation to Stay (ECF No. 27) is approved.
2 It is further ordered that this action is stayed while Petitioner completes his
3 pending state court action.

4 It is further ordered that following the conclusion of Petitioner's state court
5 action, Petitioner must, within 30 days, make a motion to lift the stay of this
6 action.

7 It is further ordered that this action will be subject to dismissal if Petitioner
8 does not make a timely motion to lift the stay, or if Petitioner otherwise fails to
9 proceed with diligence during the stay.

10 It is further ordered that The Clerk of the Court is directed to
11 administratively close this case.

12 It is further ordered that Respondents' Motion to Dismiss (ECF No. 26) is
13 denied as moot.

14 DATED THIS 8th day of May 2024.

Anne Russell Brown

ANNE R. TRAUM
UNITED STATES DISTRICT JUDGE